

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

NXIVM CORPORATION, et al., .  
 .  
 Plaintiffs, .  
 . Case No. 06-cv-01051  
 vs. .  
 . Newark, New Jersey  
 ROSS INSTITUTE, et al., . October 2, 2019  
 .  
 Defendants. .  
 .

TRANSCRIPT OF TELECONFERENCE  
BEFORE THE HONORABLE CATHY L. WALDOR  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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1 (APPEARANCES continued)

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3 For Juval Aviv, ANDREW M. ENGLANDER, ESQ.  
4 Interfor, Inc.: Friedman, Kaplan, Seiler & Adelman,  
5 LLP  
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1 (Commencement of proceedings at 2:51 P.M.)

2

3 THE COURT: Okay. On the record. Thank you.

4 NXIVM versus Ross, 06-1051. It's 2:51,

5 October 2nd. And we are on the record. We are good.

6 So there's a motion to withdraw for -- from

7 Mr. Crockett? --

8 (Simultaneous conversation)

9 MR. CROCKETT: -- yes, Your Honor. Robert Crockett  
10 on the line.

11 THE COURT: And who else is withdrawing?

12 MR. ENGLISH: The Tompkins McGuire firm.

13 THE COURT: Oh. Right. Right. Sorry.

14 So how can I possibly do that? I mean, Interfor  
15 still has a claim. Is that correct?

16 MR. ENGLISH: Well, they have -- they have a --  
17 Judge Hayden ruled in their favor, and they put in a final  
18 statement of what they claimed to be owed.

19 THE COURT: Right.

20 MR. ENGLISH: And that's basically it.

21 THE COURT: So there's an order and judgment for  
22 one million three? Six nine one five seven point five one.  
23 Right?

24 And what is outstanding on this case?

25 MR. ENGLANDER: Your Honor, if I may, this is

1 Andrew Englander.

2 THE COURT: Thank you.

3 MR. ENGLANDER: Counsel for Interfor.

4 THE COURT: Yup.

5 MR. ENGLANDER: From Friedman, Kaplan, Seiler &  
6 Adelman.

7 So what -- what's outstanding at this point is --  
8 you're right there's an -- there's a judgment for around 1.3  
9 million outstanding, which has not yet been satisfied.

10 But Judge Hayden had always asked the parties to  
11 provide supplemental information to deal with the firm's  
12 bills from the -- from the time of the trial up until present  
13 and also to calculate prejudgment interest.

14 And Interfor has submitted its supplemental papers.  
15 NXIVM's papers are due, I believe, by October 15th. And so  
16 at this point there is not a complete --

17 THE COURT: Okay.

18 MR. ENGLANDER: -- and final judgment.

19 THE COURT: Well, how can I possibly relieve you?

20 MR. ENGLISH: Well, Your Honor, I mean, because we  
21 don't have clients. That's why. The clients are gone.  
22 There's no instructions from anybody. Nobody's responding to  
23 us. We don't have anybody to deal with. And beyond that, my  
24 firm's owed a lot of money.

25 So I -- people have gotten out for far less.

1 THE COURT: That leaves --

2 MR. ENGLISH: And there's really not much left to  
3 do. Go ahead --

4 THE COURT: -- NXIVM, a corporation unrepresented.  
5 Gee, Mr. Crockett, you fought to get in the case.  
6 Now you're fighting to get out.

7 MR. CROCKETT: Well, this is Robert Crockett  
8 speaking.

9 Yes, at the time, NXIVM was a viable corporation  
10 with lots of what they call coaches working for them. And  
11 it's a big organization. And my bills were getting paid.

12 And since then, as I think everybody knows -- I  
13 don't know if Your Honor knows, but there's been a criminal  
14 trial --

15 THE COURT: I know all about it, but, you see,  
16 sometimes when you don't get paid, you have to stay in the  
17 case, because you got in the case.

18 I -- what do I have to show me --

19 MR. CROCKETT: That's not why we --

20 THE COURT: -- that NXIVM doesn't exist anymore?

21 MR. CROCKETT: I don't know if NXIVM doesn't exist  
22 anymore. But that's -- we're not getting out of the case  
23 because we haven't been paid.

24 THE COURT: Okay.

25 MR. CROCKETT: We're getting out of the case --

1 | we're moving to be relieved because nobody's responding to --  
2 | at least from Crockett & Associates' standpoint, nobody's  
3 | responding to our requests for instructions. Nobody.

4 |           MR. ENGLISH: We're Tompkins McGuire. I mean,  
5 | Nancy Salzman is who we always dealt with. And I've been  
6 | sending things to her criminal attorney, and I've received  
7 | nothing in response.

8 |           MR. ENGLANDER: Your Honor, if I may, this is  
9 | Andrew Englander again.

10 |           To the point as to whether NXIVM still exists, we  
11 | noted in our opposition papers that as recently as this past  
12 | spring, NXIVM was represented in Keith Raniere's criminal  
13 | trial and had authorized its attorneys in that case to assert  
14 | the attorney-client privilege. That attorney had submitted  
15 | numerous filings on the corporation's behalf. And that's  
16 | even after some of the principals had pled guilty.

17 |           And we don't see that anything has changed since  
18 | that point. And so while it's true that -- well, it may be  
19 | true that NXIVM is no longer operating to the extent that it  
20 | was before those events, at least with the case a few months  
21 | ago, attorneys on NXIVM's behalf had certified that it was  
22 | still an entity that had operations and was not defunct.

23 |           MR. ENGLISH: Well, Your Honor, Brian English.

24 |           I spoke to -- well, to say I tried to speak to  
25 | Mr. Englander's talking about a guy named Sullivan who acted

1 as NXIVM's attorney in the Raniere case. I called  
2 Mr. Sullivan's office last week, gave a detailed message and  
3 heard nothing back, consistently with what's been going on  
4 here.

5 MR. CROCKETT: And this is Robert Crockett.

6 I -- I am unaware -- I mean, I haven't been  
7 following the criminal case either remotely, closely, but I'm  
8 unaware that NXIVM has appeared in that case. I'm unaware.  
9 And to the extent there has been appearances in that case,  
10 it's been individuals who have been pleading privileges.  
11 But, again, I don't know if NXIVM is appearing. All I know  
12 is that -- is that I have reached out to people who gave me  
13 directions as NXIVM, and they said we don't want anything  
14 more to do with NXIVM. We're not going to tell you what to  
15 do.

16 And so quite frankly, from my position, if you --  
17 if Your Honor did not remove us or permit us to withdraw as  
18 counsel, at least from Crockett & Associates' standpoint, I  
19 mean what's difference? I don't have the authority to do  
20 anything. Zero. I mean, I've made my -- I've undertaken my  
21 professional obligation to be removed. But I don't --

22 THE COURT: What did you say?

23 MR. CROCKETT: I don't have any authority to do  
24 anything.

25 THE COURT: Well, but I don't know -- tell me

1 | how -- did you contact -- call this Mr. Sullivan just one  
2 | time?

3 |           MR. ENGLISH: Well, I called him the one time.

4 |           THE COURT: Mr. English, yeah.

5 |           MR. ENGLISH: And I have sent numerous things to  
6 | Mr. Soleaway [sic] is Nancy Salzman's lawyer. And I've been  
7 | sending -- I've sent him Judge Hayden's decision. I've been  
8 | sending him everything that the Court has entered in this  
9 | case, every filing since August 27th, I guess, was the date  
10 | of the -- or July 27th -- August 27th -- the date of the  
11 | judge's decision, I've been sending him everything and have  
12 | not heard a word in response. I must have sent him 12  
13 | different emails. And Nancy Salzman is the president and our  
14 | client.

15 |           MR. CROCKETT: But I guess I would ask  
16 | Your Honor -- this is Robert Crockett. I mean, what would be  
17 | the consequence of leaving us in? I mean, we couldn't file  
18 | any briefs. We couldn't take any positions. We don't have  
19 | authority.

20 |           THE COURT: But the two of you are asking me -- I  
21 | don't know that NXIVM has assets. I don't know whether or  
22 | not NXIVM exists. I don't know that just calling a few phone  
23 | calls and not getting a response, and then I leave a district  
24 | judge with an unrepresented corporation and open matters, an  
25 | application that's open.



1 MR. ENGLANDER: Your Honor, that's exactly right.  
2 This is Andrew Englander.

3 And -- and I would add to that that we're not  
4 talking about some indefinite period of time here. I mean,  
5 we're very close to the finish line in this case. NXIVM's  
6 papers are due in less than two weeks.

7 THE COURT: Right.

8 MR. ENGLISH: But we can't consult with anybody,  
9 Your Honor. I mean, that's the problem here --

10 (Simultaneous conversation)

11 THE COURT: Well, then --

12 MR. ENGLISH: -- is a sham better than nothing? I  
13 mean, you know. I don't understand that.

14 THE COURT: Put that in your opposition. I can't  
15 let you withdraw.

16 I'll talk to Judge Hayden and see if she has a  
17 better idea. But I can't leave a district judge with an open  
18 application and a corporation that's unrepresented. And I  
19 don't have any affidavit or certification, I don't think,  
20 about your contacts or Mr. Crockett's contacts or attempts to  
21 contact.

22 MR. ENGLISH: Well, there have been affidavits  
23 submitted.

24 THE COURT: I'm looking at Mr. Crockett's.

25 MR. CROCKETT: Yes, Your Honor. We submitted the

1 application of Chase Tajima -- or the declaration of Chase  
2 Tajima.

3 THE COURT: Who's that?

4 MR. CROCKETT: He's my associate. Last two  
5 speakers IDs were Crockett.

6 THE COURT: Oh.

7 MR. ENGLISH: And then there's one by me, and  
8 there's one by Mr. Crockett.

9 THE COURT: I saw your --

10 MR. ENGLISH: -- were all filed --

11 MR. ENGLANDER: Your Honor, I think you'll see,  
12 when you look at those affidavits that -- in the case of  
13 Mr. Crockett's firm, they don't identify, I think, other than  
14 Nancy Salzman, who they attempted to contact.

15 THE COURT: Right.

16 MR. ENGLANDER: And unless I'm missing something, I  
17 think Mr. English's firm relied on Mr. Crockett to make  
18 those -- make those outreach efforts.

19 THE COURT: August 30th --

20 MR. ENGLISH: No, actually, we made efforts on our  
21 own.

22 THE COURT: On August 30th --

23 MR. ENGLISH: To Nancy Salzman.

24 THE COURT: This is your associate. On  
25 August 30th, one NXIVM contact, whoever that is, informed me

1 she was no longer involved with NXIVM or any of the  
2 decision-making and would not providing guidance. I never  
3 heard back from Ms. Salzman, who you contacted on August 26th  
4 and August 30th.

5 MR. CROCKETT: Yeah, as far as we know --

6 (Simultaneous conversation)

7 MR. CROCKETT: As far as I know, Your Honor --  
8 Robert Crockett -- she's -- I only know Nancy Salzman to be  
9 the president, CEO. I don't know any other officers.

10 THE COURT: There are assets -- does NXIVM have  
11 assets?

12 MR. CROCKETT: I don't know. This is Robert  
13 Crockett. We do not know the answer.

14 MR. ENGLISH: No --

15 THE COURT: I need more.

16 So for now, I am not going to permit you to  
17 withdraw. But I'm going to call Judge Hayden after I get off  
18 the phone. And if anything changes, I'll get back to you.

19 MR. CROCKETT: What would you like more,  
20 Your Honor?

21 THE COURT: I need to know if NXIVM's being  
22 dissolved, if NXIVM -- was NXIVM represented by Sullivan and  
23 one call was made to this Sullivan? What firm is this  
24 Sullivan with?

25 MR. ENGLISH: I think it's called Answorth

1 [phonetic]. I think they're in Massachusetts.

2 MR. ENGLANDER: For Ashcroft.

3 MR. ENGLISH: Ashcroft, that's right.

4 THE COURT: Like the Ashcroft?

5 MR. ENGLANDER: It's called Ashcroft law firm,

6 Your Honor. It's --

7 MR. ENGLISH: They're in Massachusetts. Right?

8 MR. ENGLANDER: That's what it looks like.

9 THE COURT: What's the telephone number? You've  
10 got a phone number?

11 MR. ENGLANDER: 617.

12 THE COURT: 617.

13 MR. ENGLANDER: 573.

14 THE COURT: Mm-hmm.

15 MR. ENGLANDER: 573-9400.

16 And, Your Honor, I'm reading from -- attached to  
17 our opposition papers was a declaration by Mr. Sullivan about  
18 the status of --

19 THE COURT: Right.

20 MR. ENGLANDER: -- of NXIVM. And so that's what  
21 I'm reading from.

22 MR. CROCKETT: Well, may I inquire, does he ask  
23 if -- or does he say that NXIVM is an ongoing entity with  
24 operations?

25 MR. ENGLANDER: He does. He says it quite clearly.

1           MR. ENGLISH: Well, he -- but, once again, that  
2 was -- what? -- five months ago? And -- you know, asserting  
3 the privilege is one thing on behalf of corporation. To get  
4 instruction from a living person is really what the whole  
5 attorney-client privilege -- I mean, the attorney-client  
6 relationship is. We don't have any living people to speak  
7 to.

8           THE COURT: Let me see what Judge Hayden wants to  
9 do. But I told you what any inclination was. If she changes  
10 anything, I'll let you know.

11           MR. CROCKETT: I just have a --

12           (Simultaneous conversation)

13           MR. ENGLISH: Your Honor.

14           MR. CROCKETT: -- I just have a couple of -- maybe  
15 a question, Your Honor. I wonder what the consequence of not  
16 being permitted to remove -- I mean, could we be sanctioned  
17 for not filing a brief or taking some sort of position? I  
18 mean ...

19           THE COURT: Well, the position would be that you've  
20 had -- which should be on the docket in the event I don't  
21 permit you to withdraw -- that you've -- what your attempts  
22 were and that you've had no contact, so you're not authorized  
23 to respond. That preserves your sanctity as well as any  
24 rights on any other counsel that may come in.

25           MR. CROCKETT: All right. Well --

1                   THE COURT:   But that --

2                   MR. CROCKETT:  I guess it's better than nothing,  
3 Your Honor.

4                   THE COURT:  Right.  So I will let you know if Judge  
5 Hayden has a different proposal.  Okay?

6                   MR. ENGLISH:  Thanks, Your Honor.

7                   THE COURT:

8                   MR. CROCKETT:  Thank you, Your Honor.

9                   (Conclusion of proceedings at 3:05 P.M.)

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Certification

I, SARA L. KERN, Transcriptionist, do hereby certify that the 15 pages contained herein constitute a full, true, and accurate transcript from the official electronic recording of the proceedings had in the above-entitled matter; that research was performed on the spelling of proper names and utilizing the information provided, but that in many cases the spellings were educated guesses; that the transcript was prepared by me or under my direction and was done to the best of my skill and ability.

I further certify that I am in no way related to any of the parties hereto nor am I in any way interested in the outcome hereof.

s/ *Sara L. Kern*

10th of December, 2019

Signature of Approved Transcriber

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